



Katie M. Brown
Counsel

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December 30, 2021

VIA ELECTRONIC FILING (Public Version) and
VIA HAND-DELIVERY (Confidential Version)

The Honorable Jocelyn G. Boyd
Chief Clerk/ Executive Director
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, SC 29210

Re: Valli Finney v. Duke Energy Progress, LLC
Docket Number: 2021-363-E

Dear Ms. Boyd:

Enclosed for filing, please find Duke Energy Progress, LLC's (the "Company") Verified Answer and Motion to Dismiss the Complaints filed in the above-referenced docket. The Company requests that the Commission hold in abeyance the filing deadlines for all parties and the hearing date pending resolution of the motion. The Company also requests that the Commission grant confidential treatment of the confidential version of the motion and its exhibits on the basis that they contain customer-specific account information.

By copy of this letter we are serving the same on the parties of record.

Sincerely,

Katie M. Brown

Enclosure

cc: Valli Finney (via U.S. Mail and email)
Benjamin Mustian, Office of Regulatory Staff (via email)
Carri Grube Lybarker, Department of Consumer Affairs (via email)
Roger P. Hall, Department of Consumer Affairs (via email)
David Stark, Public Service Commission of South Carolina (via email)

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2021-363-E

IN RE:)	
)	
Valli Finney,)	
Complainant,)	
)	
v.)	DUKE ENERGY PROGRESS,
)	LLC’S VERIFIED ANSWER AND
)	MOTION TO DISMISS
Duke Energy Progress, LLC,)	COMPLAINT
Respondent)	

Pursuant to S.C. Code Ann. § 58-27-1990, S.C. Code Ann. Regs. 103-829 and 103-352, and applicable South Carolina law, respondent, Duke Energy Progress, LLC (“DEP” or the “Company”) hereby answers the complaints filed in the above-referenced proceeding and moves the Public Service Commission of South Carolina (“Commission”) to dismiss the above-captioned matter on two independent grounds: 1) the Complaints fail to allege any violation of a Commission-jurisdictional statute, rule, regulation or order and 2) the Complaints are moot because the actionable relief requested has been provided to the Complainant. The Company requests confidential treatment of the confidential version of this motion and its exhibits pursuant to S.C. Code Ann. Reg. 103-804(S)(2), the S.C. Freedom of Information Act—S.C. Code Ann. § 30-4-10, et seq.—and the Family Privacy Protection Act—S.C. Code Ann. § 30-2-10, et seq.—on the basis that they contain customer-specific account information. The Company also requests that the filing deadlines for all parties and the hearing date be held in abeyance until this motion is resolved.

In support of its motion, DEP shows the following:

BACKGROUND

Upon information and belief, Valli Finney (“Mrs. Finney” or the “Complainant”) is an authorized user of an account held by Matthew Finney, her son and a customer of DEP.¹

On November 12, 2020, Mrs. Finney called the Company’s customer service line to obtain her account balance. During the course of this call, she stated that her uncle had died, and she couldn’t remember the balance. As Mrs. Finney is an authorized user of the account, rather than the account holder, the customer service representative mistakenly believed Mrs. Finney was referring to the account holder – her son, Matthew Finney. Per the Company’s policy, the customer service representative placed a flag on the account showing that the customer of record was deceased.

On September 10, 2021, the account, which was previously enrolled in DEP’s Equal Payment Plan, was removed from the Equal Payment Plan due to the account holder being designated as deceased. On October 25, 2021, Mrs. Finney contacted the Company’s customer service line to question the account balance and find out why the account was no longer registered for the Equal Payment Plan. At that time, Mrs. Finney was advised that the account holder had been reported deceased, which Mrs. Finney disputed. The Company requested she provide proof that the account holder was living or allow the Company to speak with him; however, Mrs. Finney declined.

Upon receiving Mrs. Finney’s complaint, Kriss Rodgers, Senior Consumer Affairs Specialist, reviewed the call recording from November 12, 2020 and was able to determine that the customer service specialist incorrectly assumed the account holder was deceased when in fact it was Mrs. Finney’s uncle who had passed away, not her son.

¹ The facts set forth in this motion are supported by the affidavit of Kriss Rodgers, Senior Consumer Affairs Specialist at DEP, attached hereto as Exhibit A.

On October 26, 2021, Ms. Rodgers called Mrs. Finney to apologize for the error and explain how the error occurred. Ms. Rodgers advised Mrs. Finney that the flag showing the account holder was deceased had been removed, and a summary of the events would be provided to Company leadership so additional training and feedback could be provided to the Company's specialists. Ms. Rodgers further advised that the account would be reenrolled in a payment plan, but it would need to be transitioned to the Budget Billing Plan because the Equal Payment Plan was discontinued when the Customer Connect platform was deployed for DEP. Ms. Rodgers explained to Mrs. Finney that the account would be transitioned to the Budget Billing Plan on November 5, 2021. The enrollment was slightly delayed due to the enrollment freeze ahead of the DEP Customer Connect deployment. On October 29, 2021, Ms. Rodgers sent two gift cards to Mrs. Finney via U.S. Mail with a hand-written apology for the error.

On November 23, 2021, Mrs. Finney contacted the Company and advised that she had not received the gift cards or letter of apology. She also advised that she would prefer for the account to be set up on the Annual Budget Billing Plan, rather than the Quarterly Budget Billing Plan. In response, Ms. Rodgers credited Mrs. Finney's account with a \$23.00 bill credit and switched the account to the Annual Budget Billing Plan effective November 23, 2021. On November 29, 2021, Kriss Rodgers mailed a letter to the account holder to provide him with a 12-month billing history, confirmation that the account had been enrolled in the Annual Budget Billing Program, and the monthly budget billing amount due. A copy of the November 29 letter is attached hereto as Exhibit B.

On November 30, 2021, the Clerk's Office docketed and served a copy of two Complaints filed by Mrs. Finney. The Complaints explain the issue regarding an incorrect deceased flag being placed on the account and request relief in the form of 1) the account being placed back on

averaged billing, 2) reinstating the “other discount,” 3) requiring a death certificate, 4) a cash settlement, and 5) a sanction against the Company for lying.

On December 1, 2021 a letter of apology was mailed to the account holder from Michael Callahan, President of Duke Energy – South Carolina. The letter apologized for the customer’s inconvenience and explained that the deceased customer alert was removed from the account, and a \$23.00 bill credit had been issued. A copy of the December 1 letter is attached hereto as Exhibit C.

On December 2, Ms. Rodgers again spoke with Mrs. Finney who advised that she had not received the mailed billing statement. In response, Ms. Rodgers emailed the November 29, 2021 letter to Mrs. Finney and notified her that she should receive a letter of apology from the corporate office within a few days. A copy of the email is attached hereto as Exhibit D.

ANSWER AND ARGUMENT

DEP admits the allegations of the Complaint insomuch as Mrs. Finney alleges the Company incorrectly placed a deceased customer note on the account, therefore causing the account to be removed from its averaged billing plan. However, the Company denies all other allegations contained in the Complaints not otherwise expressly admitted herein. DEP addresses the allegations contained in the Complaints as follows:

DEP denies the allegation that Complainant spoke with 16 Company employees prior to filing her Complaints.

DEP denies the allegation that Complainant was promised a call back from two Company employees on November 5, 2021 and notes that Company employees spoke with Complainant on seven separate occasions regarding this matter.

DEP denies the allegation that the Company told Complainant the account could be placed retroactively on monthly averaged billing. The Company was able to transition the account to averaged billing on a prospective basis. However, accounts cannot be retroactively placed on such programs, and the Company denies any such statement was made.

DEP denies the allegation that the account was not placed on averaged billing by November 20, 2021. The account was placed on the Quarterly Budget Billing Plan on November 5, 2021. Upon the request of Complainant to be moved to the Annual Budget Billing Plan because, according to the Complainant, her monthly bill was too low, the account was transitioned to the Annual Budget Billing Plan on November 23, 2021.

DEP denies the allegation that a letter of apology was not sent to the customer of record. In fact, letters of apology were issued to the customer in writing on October 29, 2021 and December 1, 2021. Further, the Company has taken actions to correct its error in marking the account holder as deceased and to address each of Mrs. Finney's requests for relief, as detailed above.

A. The Complaints fail to allege violation of any statute, rule, regulation or order.

As a threshold matter, the Complaints lack sufficient specificity, factual and legal support, and fail to allege any violation of any act, rule, regulation, order, tariff or contract, and, therefore, should be dismissed.

S.C. Code Ann. Regs. 103-824 requires that complaints include "[a] concise and cogent statement of the factual situation surrounding the complaint. If a complaint relates to an act, rule, regulation or order administered or issued by the Commission, or to a provision in a tariff or contract on file with the Commission, the act, rule, regulation, order, tariff or contract should be specifically identified in the complaint." The Complainant fails to comply with these

requirements, offering allegations without explaining how such allegations actually relate to the relief requested. The Complaints also fail to specify the act, rule, regulation or order the Company is purported to have violated.

Complainant fails to offer any cogent explanation of the relationship between the allegations outlined in the Complaints and the requested relief, and the Company is uncertain which rule Mrs. Finney is alleging the Company has violated. As stated above, the Company's representatives have apologized repeatedly for the miscommunication and any resulting inconvenience and took immediate action to remedy the error. However, this misunderstanding does not amount to a statutory or regulatory violation, and the Complainant has failed to allege any facts in the Complaints that would entitle her to relief from the Commission. Complainant's failure to set forth any facts or law supporting her request, and failure to allege violation of any act, rule, regulation, order, tariff or contract, requires dismissal of these Complaints.

Because the Complaints filed by Mrs. Finney contain no allegation supporting a finding that DEP has violated any applicable statute, rule, regulation or order for which the Commission can grant relief—and because, pursuant to S.C. Code Ann. § 58-27-1990, a hearing in this case is not necessary in the public interest or for the protection of substantial rights—the Company requests that this matter be dismissed.

B. The Company has provided all actionable relief requested, rendering the Complaints moot.

Even if a sufficient allegation were presented in the Complaints, Mrs. Finney's Complaints still require dismissal because all actionable requests related to this matter are moot inasmuch as all actionable requested relief has been provided. See Order No. 2020-797 at 2, Docket No. 2020-125-E (Dec. 11, 2020) ("A case becomes moot when judgment, if rendered, will have no practical

effect on the existing controversy.”) ; *Sloan v. Greenville County*, 361 S.C. 568, 572, 606 S.E. 2d 464, 466 (2004). In the Complaint dated October 26, 2021, Mrs. Finney asks that the Commission order DEP to put the account “back on averaging, reinstate[] the other discount, REQUIRE[] A DEATH CERTIFICATE, and, for pain and suffering, offer[] a cash settlement.” In the Complaint dated November 22, 2021, she further asks that the Commission sanction the Company “for LYING” to her. The Company addresses each of these requests for relief below.

As to the request for the account to be placed “back on averaging,” as explained above, the account was placed back on an averaged billing plan – the Quarterly Budget Billing Plan – on November 5, 2021. Upon the request of Mrs. Finney, the account was moved to the Annual Budget Billing Plan on November 23, 2021, and letters confirming the change were sent on November 29, 2021 and December 2, 2021. The Company has taken all necessary actions to provide Mrs. Finney and the account holder with the actionable relief requested.

As to the request related to the death certificate, the deceased customer flag was removed from the account on October 26, 2021 and therefore no death certificate is required. The Company has taken all actions available to it to provide the relief requested.

With respect to Mrs. Finney’s request for pain and suffering and a cash settlement, the Commission lacks the jurisdiction or authority necessary to award monetary damages. *See Jimmy Berry v. Dominion Energy South Carolina, Inc.*, Docket No. 2019-358-E, Order No. 2019-874 (Dec. 18, 2019) (Where Complainant sought monetary damages, the Commission concluded, “Mr. Berry has not alleged that DESC violated any applicable statute, rule, regulation, or order under this Commission’s jurisdiction, and he only seeks monetary damages as relief. As the Commission lacks jurisdiction, his complaint is not properly before this Commission and must be dismissed because the Commission lacks jurisdiction to award money damages.”); *Brenda Bryant v.*

Carolina Water Serv., Inc., Order No. 97-1003, Docket No. 97-358-W (Nov. 24, 1997) (“[T]his Commission has no statutory authority to order the payment of damages.”); *Bobby Watts v. BellSouth Telecommunications, Inc.*, Docket No. 95-1201-C, Order No. 96-104 (Mar. 5, 1996) (when the complainant requested a monetary award, the Commission held: “The South Carolina Code of Laws does not allow this Commission to award damages under the circumstances of the case at bar This Commission has no statutory authority to award such damages.”). In this case, the Company has not violated any rules, statutes, or regulations, the Complainant has failed to allege any such violations, and no evidence has been offered to show any monetary impacts to the Complainant – who is not the holder of the account.

With respect to Mrs. Finney’s request that the Company be sanctioned for lying, S.C. Code Ann. Regs. 103-857 governs the Commission’s penalty provisions. Specifically, notwithstanding the Company’s denial of Mrs. Finney’s allegation, S.C. Code Ann. Regs. 103-857 provides that fines or penalties may be assessed “as allowed by statute.” As stated previously herein, the Complainant has failed to allege a violation of any statutes on the part of the Company, and the Company again denies that any such action occurred. Further, the Company has reviewed the Commission’s statutes, regulations, and rules and has been unable to determine any that would be applicable to the allegations that Mrs. Finney has set forth.

As explained above, this situation involved an unfortunate miscommunication between the Company’s representative and Mrs. Finney that resulted in her son’s account being erroneously removed from the Equal Payment Plan. The Company has taken all steps available to it to remedy the error and has repeatedly apologized for the misunderstanding. Complainant’s assertion that the Company lied to her is a mischaracterization of the events at issue. In any case, the error did not result in the violation of any Commission rules, and sanctions are not warranted in this case.

Finally, with respect to the request to reinstate the “other discount,” the Company is uncertain what Mrs. Finney is referencing. After a thorough review of the account in question, the Company determined that the account was previously on the Equal Payment Plan, which was not a discount to the bill, but rather a program that allowed customers to pay one predictable amount every month to better manage their budget. As explained above, the account has been transitioned to the Annual Budget Billing Plan, which is an equivalent plan implemented with the Customer Connect billing platform. The account is also enrolled in the Company’s EnergyWise Program, but it was not removed or unenrolled from that program. The account receives an annual bill credit of \$25.00, which was last applied to the account on October 12, 2021. Aside from the Equal Payment Plan and EnergyWise Program, no further discounts or enrollments in other programs could be found for this account. Therefore, there is no action the Company can reasonably take in response to this request.

As a result of the actions taken by the Company to remedy the error resulting from this unfortunate miscommunication, there is no justiciable controversy in this case, and a Commission ruling on the requested relief would “have no practical effect,” rendering the Complaints moot.

The Company requests confidential treatment of the confidential version of this motion and its exhibits pursuant to S.C. Code Ann. Reg. 103-804(S)(2), the S.C. Freedom of Information Act, and the Family Privacy Protection Act on the basis that it contains customer-specific account information.

CONCLUSION

Complainant has failed to adequately allege that DEP has violated any Commission jurisdictional statute, rule, regulation or order and has failed to allege any actionable relief that has not already been addressed by the Company. Therefore, this matter should be dismissed.

WHEREFORE, DEP moves the Commission to dismiss the Complaints with prejudice on two independent grounds: 1) the Complaints fail to allege a violation of a Commission-jurisdictional statute, rule regulation or order and 2) the Company has provided all actionable relief requested, rendering the Complaints moot. DEP also requests confidential treatment of the confidential version of this motion and its exhibits, requests that the Commission hold the testimony deadlines for all parties and the hearing in abeyance pending resolution of this motion; and requests such other relief as the Commission deems just and proper.

Respectfully submitted this 30th day of December 2021.

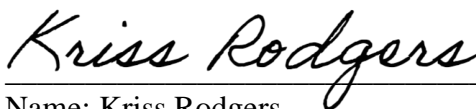
s/ Katie M. Brown

Katie M. Brown, Counsel
Duke Energy Carolinas, LLC
40 West Broad Street, Suite 690
Greenville, SC 29601
Telephone (864) 370-5045
Katie.brown2@duke-energy.com

Counsel for Duke Energy Progress, LLC

CERTIFICATION

I, Kriss Rodgers, state and attest, under penalty of perjury, that I have reviewed the foregoing Duke Energy Progress, LLC's Verified Answer and Motion to Dismiss Complaint, and, in the exercise of due diligence, have made reasonable inquiry into the accuracy of the information and representations provided therein; and that, to the best of my knowledge, information, and belief, all information contained therein is accurate and true and contains no false, fictitious, fraudulent or misleading statements; that no material information or fact has been knowingly omitted or misstated therein, and that all information contained therein has been prepared and presented in accordance with all applicable South Carolina general statutes, Commission rules and regulations, and applicable Commission Orders. Any violation of this Certification may result in the Commission initiating a formal review proceeding. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment by contempt.

A handwritten signature in cursive script that reads "Kriss Rodgers". The signature is written in black ink and is positioned above a horizontal line.

Name: Kriss Rodgers

Title: Senior Consumer Affairs Specialist

Duke Energy Progress, LLC

EXHIBIT A

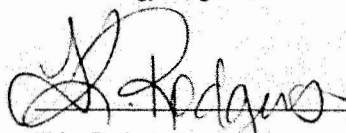
AFFIDAVIT

I, Kriss Rodgers, am a Senior Consumer Affairs Specialist for Duke Energy Progress, LLC. I have been employed by Duke Energy Progress, LLC since 2007. I am responsible for responding to customer inquiries, including those directed to the South Carolina Office of Regulatory Staff. I have reviewed the documents received and maintained in the ordinary course of business by Duke Energy Progress, LLC for Mrs. Finney, and I am familiar with the records of Duke Energy Progress, LLC that pertain to Mrs. Finney's son's electric service account—for which Mrs. Finney is an authorized user.

I am personally knowledgeable as to the records and information discussed in the attached answer and motion to dismiss. I know them to be true of my own knowledge, or I have gained knowledge of them from the records of Duke Energy Progress, LLC.

I, Kriss Rodgers, first being duly sworn upon oath, depose and say that I am authorized to represent Duke Energy Progress, LLC, and that I have read the above motion to dismiss and know the contents; that the contents are true and correct to the best of my knowledge and belief

Duke Energy Progress, LLC



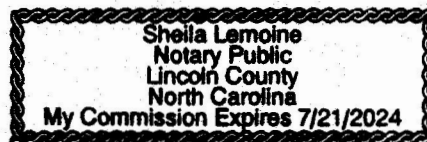
Kriss Rodgers, Senior Consumer Affairs Specialist

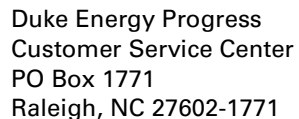
Sworn to and subscribed before me
this the 30th day of December, 2021.



Notary Public for North Carolina

My Commission Expires: July 21, 2024





November 29, 2021

Matthew Finney
7 Marshall St.
Sumter, SC 29150

RE: Account # [REDACTED]

Dear Matthew Finney:

In response to your request, this letter serves as confirmation that the above listed account has been enrolled in the Annual Budget Billing Program. The monthly budget billing amount is [REDACTED] with the next payment of [REDACTED] being due on or before December 13, 2021. Listed below is a summary of the billing history for the above referenced account. We hope this information is helpful.

[illegible]

EXHIBIT B

[illegible]

If we can be of further assistance in meeting your energy needs, please contact our Customer Service Center at (919) 508-5400 or (800) 452-2777 during the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday.

Sincerely,

Duke Energy Progress

EXHIBIT C



Duke Energy Corporation
40 W Broad Street
Suite 600
Greenville, SC 29601

December 1, 2021

Mr. Matthew Finney
7 Marshall St.
Sumter, SC 29150

Dear Mr. Finney,

Thank you very much for your patience and understanding as Duke Energy Progress addressed the concerns you brought to our attention regarding your account.

On behalf of the Company, I would like to sincerely apologize for any inconvenience you may have experienced.

In response to your complaint, Duke Energy Progress took the following actions:

- Deceased customer alert was removed from the account
- A \$23.00 credit was applied to the account as reimbursement for outdoor solar light damage

Thank you again for bringing this matter to our attention. Providing excellent customer service is a top priority for us at Duke Energy Progress, and we appreciate having you as a customer. If you have any further concerns or do not feel like your problem has been resolved to your satisfaction, please contact Kriss Rodgers at 919-546-4514. Thank you for being a valued Duke Energy Progress customer.

Sincerely,

A handwritten signature in black ink that reads "Michael Callahan".

Michael Callahan
President
Duke Energy - South Carolina

EXHIBIT D

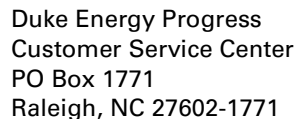
From: EmailUs
Sent: Thursday, December 2, 2021 2:05 PM
To: vallimfinney@yahoo.com
Subject: Duke Energy Bill History
Attachments: Finney Bill History.pdf

Dear Mrs. Finney,

Attached is a 12-month bill history, confirmation of enrollment into the Annual Budget Billing Program and a \$23.00 bill credit.

Best regards,

Duke Energy Progress



Matthew Finney
7 Marshall St.
Sumter, SC 29150

Dear Matthew Finney:

In response to your request, this letter serves as confirmation that the above listed account has been enrolled in the Annual Budget Billing Program. The monthly budget billing amount is [REDACTED] with the next payment of [REDACTED] being due on or before December 13, 2021. Listed below is a summary of the billing history for the above referenced account. We hope this information is helpful.

[illegible]

EXHIBIT D

[illegible]

If we can be of further assistance in meeting your energy needs, please contact our Customer Service Center at (919) 508-5400 or (800) 452-2777 during the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday.

Sincerely,

Duke Energy Progress

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2021-363-E

In the Matter of:)
)
 Valli Finney,)
 Complainant,)
)
 v.)
)
 Duke Energy Progress, LLC,)
 Respondent)

CERTIFICATE OF SERVICE

The undersigned, Lyndsay McNeely, Paralegal for Duke Energy Progress, LLC, does hereby certify that she has served the persons listed below with a copy of Duke Energy Progress, LLC's Verified Answer and Motion to Dismiss Complaint in the above-captioned proceedings via electronic mail and U.S. Mail as specified below on December 30, 2021.

Benjamin Mustian
 Office of Regulatory Staff
bmustian@ors.sc.gov

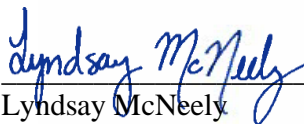
Carri Grube Lybarker
 SC Department of Consumer Affairs
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Roger P. Hall
 SC Department of Consumer Affairs
rhall@scconsumer.gov

Katie M. Brown
 Duke Energy Progress, LLC
katie.brown2@duke-energy.com

Valli Finney
 7 Marshall Street
 Sumter, SC 29150
vallimfinney@yahoo.com

Dated this 30th day of December, 2021.


 Lyndsay McNeely